

REMARKS

Applicant respectfully requests that the above-identified patent application be reexamined and reconsidered.

Claims 1-36 are now pending in this application. In an Office Action dated December 19, 2002 (hereinafter "Office Action"), Claims 1-36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Giovannoli (U.S. Patent No. 5,842,178) in view of Mandler et al. (U.S. Patent No. 5,732,400). Claims 32-36 were rejected under 35 U.S.C. § 101 for failing to provide a concrete, useful, and tangible result. Pursuant to 37 C.F.R. § 1.111, and for the reasons set forth in the Examiner's interview, applicant respectfully requests reconsideration of this application.

Record of the Telephonic Interview

Applicant thanks Examiner Akers for the interview of March 5, 2003. During the interview, Examiner Akers and the undersigned discussed the present invention and the cited references. Examiner Akers indicated that Claims 13-17 appear to contain allowable subject matter in view of the cited references. Examiner Akers also indicated that, although the claims are in proper form as they are currently drafted, the current rejection of Claims 1 and 18 may be withdrawn if the claims were amended to further define the normalization process. Lastly, Examiner Akers suggested that the computer-readable medium claims would be in condition for allowance if amended to generate some type of "output," such as a display on a display device.

Summary of the Invention

Prior to discussing the reasons why applicant believes the claims in this application are allowable, a brief description of the present invention is presented. The following discussion of the disclosed embodiments of applicant's invention and the discussion of the differences among the disclosed embodiments and the teachings of applied references, are not provided to define the scope or interpretation of any of the claims. Instead, such discussed differences are provided to

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help the U.S. Patent and Trademark Office (hereinafter "the Office") appreciate certain aspects of the present invention that are not disclosed in the cited references.

The present invention is directed to a system and method for managing and evaluating commodities purchasing over a network of distributed computing devices. In one embodiment, the method allows a plurality of buyers to generate one request for quote and, in response to the request for quote receive a quote from a plurality of vendors. The system of the present invention provides a price normalization routine that allows buyers to evaluate and compare a normalized price for commodity products having different evaluation parameters. The normalization process is described in many components of applicant's specification including the section of applicant's specification describing the items of FIGURE 9. All of the claims, as they now stand, include various features related to the normalization process.

Rejection of Claims 1-36 Under 35 U.S.C. § 103(a)

The Office Action rejected Claims 1-36 under 35 U.S.C. § 103(a) as being unpatentable over Giovannoli in view of Mandler et al. More specifically, the Office Action cites FIGURES 1, 2A, 5, 6, and 7 of Giovannoli, asserting that Giovannoli discloses a method for calculating a quote as well as a method of responding to a request for a quote. Further, the Office Action cites FIGURE 4A and Col. 13, line 34, to Col. 16, line 56, of Mandler et al. as support the rejection of the claims, asserting that Mandler et al. discloses a renegotiation method. The Office Action does not make a specific reference to the claimed element of "normalizing said price data set, thereby creating a normalized price data value." As described in more detail below, applicant respectfully submits that this claimed feature is not disclosed or suggested in Giovannoli and Mandler et al., alone or in combination.

Claims 1 and 18, as amended, are directed to a method for calculating price data, which has a number of steps, including the step of "generating a normalized price data value, wherein the normalized price data value is a statistical value calculated by a comparison of a quoted value derived from the price data set to at least one metric value derived from the metric data." As

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described in the above summary, the method of Claims 1 and 18 includes a step of generating a normalized price value. As described in applicant's specification, the normalization process allows buyers to evaluate and compare a normalized price for commodity products having different evaluation parameters.

Referring to the references relied upon by the Office Action rejection, applicant respectfully submits that none of the cited references, alone or in combination, discloses a method of generating a normalized price data value. Moreover, none of the cited references describes a problem that even suggests a need for a method for "generating a normalized price data value, wherein the normalized price data value is calculated by comparison of a metric price to a quoted price, said quoted price being derived from the price data set." While it is true that Giovannoli and Mandler et al. disclose a network for processing requests for quotes, these references do not suggest a method for processing price data to derive a normalized price to compare similar but unequal products.

Applicant respectfully submits that Giovannoli and Mandler et al. fail to disclose, teach, or suggest the combination of all elements of Claims 1 and 18, and thus, respectfully submit that Claims 1 and 18 are in condition for allowance. To establish a *prima facie* case of obviousness, Section 2143 of the M.P.E.P. requires that a reference have some suggestion or motivation to modify or combine the reference teachings, and the prior art reference must teach or suggest all the claim limitations. Applicant respectfully submits that Claims 1 and 18 are now in condition for allowance, because (1) Giovannoli and Mandler et al. do not teach or suggest the combination of each and every element of Claim 1, either alone or in combination, and (2) there is no motivation to modify or combine the reference teachings. For at least these reasons, and in view of the amendments, applicant respectfully submits that the claims are now in condition for allowance. Therefore, applicant respectfully requests that the rejection of Claims 1 and 18 be withdrawn.

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Since Claims 2-17 and 19-31 depend from Claims 1 and 18, respectively, and Claims 32-36 are computer-readable medium claims having language that parallels the language of Claims 1 and 18, the analysis applied to Claims 1 and 18 also applies to these claims and their respective intermediate dependent claims. Therefore, applicant respectfully submits that Claims 2-19 and 19-36 are in condition for allowance for the same reasons as Claims 1 and 18.

Further, the dependent claims are submitted to be allowable for additional reasons. More specifically, Claims 13-17 and 27-31 are directed to various embodiments of the present invention that include further definitions of a method of generating a normalized price data value. For instance, Claim 13 is directed to a method of "applying a metric transform to said price data set to create a normalized price data value." As discussed in the Examiner interview of March 5, 2003, Claims 14, 15, and 16 are all directed to specific embodiments of a normalizing process that includes the step of calculating a size total based on a summation of said commodity size parameters and summing said price total from each type of commodity item, thereby creating a total type price, and the step of comparing said sum market price total by said total type price, thereby creating the normalized price data value. Applicant respectfully submits that Giovannoli and Mandler et al. fail to mention or suggest subject matter that is related to applicant's claimed invention.

Rejection of Claims 32-36 Under 35 U.S.C. § 101

The Office Action rejected Claims 32-36 under 35 U.S.C. § 101 for failing to provide a concrete, useful, and tangible result. In the aforementioned telephone conference, the Examiner indicated these claims do not meet the standards of 35 U.S.C. § 101 because the claims fail to produce an output. In response to the rejection, and in response to the Examiner's suggestions during the interview of March 5, 2003, applicant has amended Claim 32 to direct the computer-readable medium claims to a claim having computer-executable instructions for generating an "output." More specifically, Claim 32 has been amended to include the limitation of "generating an *output* of the normalized price data value for *depiction on said buyer client computer*." These

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claims are now specifically directed to a product configured for generating an output in the form of a display on a display device. In view of the foregoing, applicant respectfully requests that the rejection under 35 U.S.C. § 101 be withdrawn.

CONCLUSION

In view of the foregoing remarks, it is submitted that the present application is now in condition for allowance. Reconsideration and reexamination of the application and allowance of the claims are solicited. If the Examiner has any questions or comments concerning this matter, the Examiner is invited to contact applicant's undersigned attorney at the number below.

Respectfully submitted,

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